

Introduced by Senator Figueroa

February 22, 2005

An act to amend Section 2746.51 of the Business and Professions Code, relating to nursing.

LEGISLATIVE COUNSEL'S DIGEST

SB 614, as amended, Figueroa. Certified nurse-midwives.

Existing law, the Nursing Practice Act, authorizes the Board of Registered Nursing to issue a certificate to practice nurse-midwifery. The act describes the scope of practice authorized by the certificate, including that a certified nurse-midwife may furnish or order Schedule III, IV, or V controlled substances, and if ordered in a hospital, Schedule II controlled substances.

This bill would delete the requirement that Schedule II controlled substances be ordered in a hospital. The bill would authorize a certified nurse-midwife to furnish or order Schedule II controlled substances under conditions applicable to Schedule III, IV, or V controlled substances. *The bill would require that a certified nurse-midwife with an active furnishing number, at the time of certificate renewal, provide specified documentation of continuing education relating to Schedule II controlled substances.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2746.51 of the Business and
- 2 Professions Code is amended to read:

1 2746.51. (a) Neither this chapter nor any other provision of
2 law shall be construed to prohibit a certified nurse-midwife from
3 furnishing or ordering drugs or devices, including controlled
4 substances classified in Schedule II, III, IV, or V under the
5 California Uniform Controlled Substances Act (Division 10
6 (commencing with Section 11000) of the Health and Safety
7 Code), when all of the following apply:

8 (1) The drugs or devices are furnished or ordered incidentally
9 to the provision of any of the following:

10 (A) Family planning services, as defined in Section 14503 of
11 the Welfare and Institutions Code.

12 (B) Routine health care or perinatal care, as defined in
13 subdivision (d) of Section 123485 of the Health and Safety Code.

14 (C) Care rendered to essentially healthy persons within a
15 facility specified in subdivision (a), (b), (c), (d), (i), or (j) of
16 Section 1206 of the Health and Safety Code, a clinic as specified
17 in Section 1204 of the Health and Safety Code, a general acute
18 care hospital as defined in subdivision (a) of Section 1250 of the
19 Health and Safety Code, a licensed birth center as defined in
20 Section 1204.3 of the Health and Safety Code, or a special
21 hospital specified as a maternity hospital in subdivision (f) of
22 Section 1250 of the Health and Safety Code.

23 (2) The drugs or devices are furnished or ordered by a certified
24 nurse-midwife in accordance with standardized procedures or
25 protocols. For purposes of this section, standardized procedure
26 means a document, including protocols, developed and approved
27 by the supervising physician and surgeon, the certified
28 nurse-midwife, and the facility administrator or his or her
29 designee. The standardized procedure covering the furnishing or
30 ordering of drugs or devices shall specify all of the following:

31 (A) Which certified nurse-midwife may furnish or order drugs
32 or devices.

33 (B) Which drugs or devices may be furnished or ordered and
34 under what circumstances.

35 (C) The extent of physician and surgeon supervision.

36 (D) The method of periodic review of the certified
37 nurse-midwife's competence, including peer review, and review
38 of the provisions of the standardized procedure.

39 (3) If Schedule II or III controlled substances, as defined in
40 Sections 11055 and 11056 of the Health and Safety Code, are

1 furnished or ordered by a certified nurse-midwife, the controlled
2 substances shall be furnished or ordered in accordance with a
3 patient-specific protocol approved by the treating or supervising
4 physician and surgeon. *For Schedule II controlled substance*
5 *protocols, the provision for furnishing the Schedule II controlled*
6 *substance shall address the diagnosis of the illness, injury, or*
7 *condition for which the Schedule II controlled substance is to be*
8 *furnished.*

9 (4) The furnishing or ordering of drugs or devices by a
10 certified nurse-midwife occurs under physician and surgeon
11 supervision. For purposes of this section, no physician and
12 surgeon shall supervise more than four certified nurse-midwives
13 at one time. Physician and surgeon supervision shall not be
14 construed to require the physical presence of the physician, but
15 does include all of the following:

16 (A) Collaboration on the development of the standardized
17 procedure or protocol.

18 (B) Approval of the standardized procedure or protocol.

19 (C) Availability by telephonic contact at the time of patient
20 examination by the certified nurse-midwife.

21 (b) (1) The furnishing or ordering of drugs or devices by a
22 certified nurse-midwife is conditional on the issuance by the
23 board of a number to the applicant who has successfully
24 completed the requirements of paragraph (2). The number shall
25 be included on all transmittals of orders for drugs or devices by
26 the certified nurse-midwife. The board shall maintain a list of the
27 certified nurse-midwives that it has certified pursuant to this
28 paragraph and the number it has issued to each one. The board
29 shall make the list available to the California State Board of
30 Pharmacy upon its request. Every certified nurse-midwife who is
31 authorized pursuant to this section to furnish or issue a drug order
32 for a controlled substance shall register with the United States
33 Drug Enforcement Administration.

34 (2) The board has certified in accordance with paragraph (1)
35 that the certified nurse-midwife has satisfactorily completed at
36 least six months of physician and surgeon supervised experience
37 in the furnishing or ordering of drugs or devices and a course in
38 pharmacology covering the drugs or devices to be furnished or
39 ordered under this section. The board shall establish the
40 requirements for satisfactory completion of this paragraph.

1 (3) A copy of the standardized procedure or protocol relating
2 to the furnishing or ordering of controlled substances by a
3 certified nurse-midwife shall be provided upon request to any
4 licensed pharmacist who is uncertain of the authority of the
5 certified nurse-midwife to perform these functions.

6 (4) *Certified nurse-midwives who are certified by the board*
7 *and hold an active furnishing number, who are currently*
8 *authorized through standardized procedures or protocols to*
9 *furnish Schedule II controlled substances, and who are*
10 *registered with the United States Drug Enforcement Agency shall*
11 *provide at the time of certificate renewal, documentation of*
12 *continuing education specific to the use of Schedule II controlled*
13 *substances in settings other than a hospital based on standards*
14 *developed by the board. New certification for furnishing*
15 *Schedule II controlled substances shall include content related to*
16 *Schedule II controlled substances based on the standards*
17 *developed by the board.*

18 (c) Drugs or devices furnished or ordered by a certified
19 nurse-midwife may include Schedule II controlled substances
20 under the California Uniform Controlled Substances Act
21 (Division 10 (commencing with Section 11000) of the Health and
22 Safety Code) under the following conditions:

23 (1) The drugs and devices are furnished or ordered in
24 accordance with requirements referenced in paragraphs (2) to (4),
25 inclusive, of subdivision (a) and in paragraphs (1) to (3),
26 inclusive, of subdivision (b).

27 (2) When Schedule II controlled substances, as defined in
28 Section 11055 of the Health and Safety Code, are furnished or
29 ordered by a certified nurse-midwife, the controlled substances
30 shall be furnished or ordered in accordance with a
31 patient-specific protocol approved by the treating or supervising
32 physician and surgeon.

33 (d) Furnishing of drugs or devices by a certified
34 nurse-midwife means the act of making a pharmaceutical agent
35 or agents available to the patient in strict accordance with a
36 standardized procedure or protocol. Use of the term “furnishing”
37 in this section shall include the following:

38 (1) The ordering of a drug or device in accordance with the
39 standardized procedure or protocol.

1 (2) Transmitting an order of a supervising physician and
2 surgeon.

3 (e) “Drug order” or “order” for purposes of this section means
4 an order for medication or for a drug or device that is dispensed
5 to or for an ultimate user, issued by a certified nurse-midwife as
6 an individual practitioner, within the meaning of Section 1306.03
7 of Title 21 of the Code of Federal Regulations. Notwithstanding
8 any other provision of law, (1) a drug order issued pursuant to
9 this section shall be treated in the same manner as a prescription
10 of the supervising physician; (2) all references to “prescription”
11 in this code and the Health and Safety Code shall include drug
12 orders issued by certified nurse-midwives; and (3) the signature
13 of a certified nurse-midwife on a drug order issued in accordance
14 with this section shall be deemed to be the signature of a
15 prescriber for purposes of this code and the Health and Safety
16 Code.